

BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554

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APR 28 1997

Federal Communications Commission  
Office of Secretary

CC Docket No. 97-121

In the Matter of )  
SBC Communications Inc. )  
Application for Section 271 Authorization )  
to Provide In-Region, InterLATA Service )  
in the State of Oklahoma )

To: The Commission

COMMENTS OF COX COMMUNICATIONS, INC.  
ON MOTION TO DISMISS

Cox Communications, Inc. ("Cox"), by its attorneys, hereby submits its comments in response to the Motion to Dismiss filed by the Association for Local Telecommunications Service ("ALTS") in the above-referenced proceeding.<sup>1</sup> Cox files these comments for the limited purpose of establishing that it does not yet provide competing "telephone exchange service . . . to residential and business subscribers," as those terms are used in Section 271(c)(1)(A) of the Communications Act and that, therefore, SBC Communications, Inc. and SBC Corp. (collectively, "SBC") cannot rely on Cox's operations to demonstrate compliance with the requirements of that provision.

A Cox subsidiary is the cable operator serving Oklahoma City, Oklahoma. As is the case in many of Cox's markets across the country, Cox actively is engaged in entering the local telephone market in Oklahoma City, and expects to provide a significant facilities-based

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<sup>1</sup>See ALTS Motion to Dismiss SBC Communications Inc.'s Application for Section 271 Authorization to Provide In-Region InterLATA Service in the State of Oklahoma, Public Notice, DA 97-864, CC Dkt. No. 97-121 (Com. Car. Bur. rel. Apr. 23, 1997) (seeking comments on ALTS motion by April 28, 1997).

alternative to SBC's affiliate Southwestern Bell Telephone Company ("Southwestern Bell") for residential customers. Cox Communications of Oklahoma City, Inc. has been certificated by the Oklahoma Corporation Commission to provide local exchange service and has negotiated an interconnection agreement with Southwestern Bell, although that agreement has not yet been approved by the Corporation Commission. Cox plans to begin providing local telephone service in Oklahoma City. Cox is taking the expensive and complicated steps to comply with the regulatory requirements, gain a suitable interconnection agreement and ready its network. Cox has not, however, begun to provide service. Cox does not yet have an approved interconnection agreement and it must complete the upgrade of its network so that the reliability Cox cable customers have come to expect will also be delivered to Cox's telecommunications customers.

Although Cox is not yet providing service, SBC relies on a discussion of the nature of Cox's cable television facilities to support its application for authority to provide interLATA service.<sup>2</sup> Because Cox is not providing local exchange service at this time, however, it does not meet the requirements of Section 271(c)(1)(A), and therefore SBC may not rely on Cox to demonstrate its compliance with that provision.<sup>3</sup> Moreover, SBC has not claimed that any

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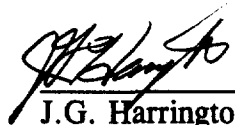
<sup>2</sup>SBC Application at 93-94, Wheeler Affidavit.

<sup>3</sup>Because Cox and other facilities-based carriers requested interconnection prior to the date three months before the SBC application was filed, however, SBC cannot pursue its application via the "Track B" provisions of Section 271(c)(1)(B). Track B is not available because facilities-based entities have requested interconnection in Oklahoma. While these entities may not now be providing both business and residential service, that does not permit SBC to opt for Track B. Rather, a BOC must provide evidence that facilities-based competition is not emerging before it can follow Track B. Otherwise, SBC could evade the intent of Section 271 by, for instance, stonewalling interconnection negotiations and claiming

provider other than Brooks Fiber actually is providing service that meets the requirements of Section 271(c)(1)(A). Thus, to the extent that Brooks Fiber is not providing both business and residential local exchange service predominantly over its own facilities, SBC cannot rely on Cox's status as triggering Track A and SBC's application therefore would be defective and should be dismissed.

Respectfully submitted,

COX COMMUNICATIONS, INC.



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April 28, 1997

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that there were no actual facilities-based providers.


# **DECLARATION OF JEFF STOREY**

1. My name is Jeff Storey. I am Director, Network Operations of Cox Communications of Oklahoma City, Inc. I am providing this declaration in connection with the comments of Cox Communications, Inc. (Cox) in response to the motion to dismiss the application of SBC Communications, Inc., for authority to provide in-region interLATA services in the State of Oklahoma, filed by the Association for Local Telecommunications Services.
2. I am personally familiar with Cox's telecommunications operations in the State of Oklahoma. The information provided in this declaration is based on my personal knowledge.
3. Cox Oklahoma Telcom, Inc. ("Cox Telcom") was certificated to provide local exchange and exchange access services in Oklahoma on February 28, 1997. Prior to receiving its certification, Cox Telcom requested negotiation of an interconnection agreement with SBC's affiliate Southwestern Bell Telephone Company. Those negotiations resulted in an interconnection agreement that was executed on April 10, 1997. The interconnection agreement has not been approved by the Oklahoma Corporation Commission and therefore is not yet in effect.

4. Cox is in the process of upgrading its facilities to provide local telephone service in the area served by its Oklahoma City cable system. That process has not been completed at this time.
5. Because Cox has not completed upgrading its facilities and because Cox's interconnection agreement with Southwestern Bell is not yet in effect, Cox Telcom is not now providing traditional local exchange service, i.e., local telephone service to any customers, business or residential. Cox Telcom fully intends to provide such service in the future.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on April 25, 1997.



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Director, Network Operations

## CERTIFICATE OF SERVICE

I, Tammi A. Foxwell, of the law firm of Dow, Lohnes & Albertson, do hereby certify that on this 28th day of April, 1997, I caused copies of the foregoing "Comments" to be served via first-class mail, postage prepaid (except where indicated as via hand-delivery), to the following:

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\*Via Hand Delivery.